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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,169	02/27/2006	Markus Hame	60,469-255;5304	8609
64779 7590 08/11/2010 CARLSON GASKEY & OLDS 400 W MAPLE STE 350 BIRMINGHAM, MI 48009				
EXAMINER				
SINGH, KAVEL				
ART UNIT		PAPER NUMBER		
3651				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/569,169

Applicant(s)

HAME ET AL.

Examiner

KAVEL P. SINGH

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2010.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-27 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

The rejection to claim 1 under U.S.C. 101 is withdrawn.

Applicant's arguments filed 6/2/10 have been fully considered but they are not persuasive. Regarding claim 1, Applicant argues that Kraft does not teach a drive member that follows a path around the wheels. Kraft teaches the modular drive units 44, 46 and 48 includes a drive motor and gear reducer operably linked to sprocket wheels and chains which engage the toothed step links 30 of the conveyor 12, to propel the endless belt 15 about its guided path C3 L60-65. Follow is defined as to engage to, the drive member 44 is engaged to follow a path via the belt 15 around a plurality of wheels 38,58. Applicant then argues that there is no suggestion to combine the rollers 38,58 of Kraft to an encoder of Joosten since the rollers 38,58 will rotate based on the speed of the movement of the step chain and steps. Kraft teaches belt 15 is supported by guide and support rollers or wheels 38 which cooperate with guide tracks 40. The steps 26, in addition to being supported by belt 15, are also supported and guided by trailer wheels or rollers 58 which cooperate with trailer guide tracks 70 to guide and support the steps 26 C3 L55-60. Therefore the wheels are on separate guide tracks rotating a different speeds which then an encoder could be used to monitor the speed. Joosten teaches the present invention to provide a method of measuring, recording, analyzing and reporting the operating velocity, deceleration, jerk and stopping distance of the steps, treadboards, pallets, treadway, or conveyor mechanism and the moving handrails of an

escalator and the like C2 L29-40. The claim language does not differentiate on how it is determined if the rollers are rotating at the same speed, just reads determining.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 27 provides for the use of the drive member around the selected wheels, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 27 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5,7,8,11,13-15,18-20, , and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft U.S. Patent 4,397,096 in view of Joosten U.S. Patent No. 6,112,166.

Claim 1, Kraft teaches having at least one drive member (40,44) that follows a path around a plurality of wheels (38,58, sprocket wheels) C3 L63-65, comprising: determining whether at least ones of the selected wheels (38,58, sprocket wheels) C3 L63-65 rotate at the same speed by using the rotary encoder (7,8) of Joosten. It would be obvious of one of ordinary skill to use the monitoring device of Joosten into the invention of Kraft in order to add additional safety to the conveyor.

Claim 2, Kraft does not teach as Joosten teaches activating a brake (C4 L13-15 Fig. 4) responsive to determining that the wheels (38,58, sprocket wheels C3 L63-65 of Kraft) rotate at a different speed (see claim 1 the detection of the conveyor mechanism). It would be obvious to one of ordinary skill to use a brake activation of Joosten into the invention of Kraft in order to add additional safety to the conveyor.

Claim 3, Kraft teaches there are at least two drive members (44,46) each associated with a deflection wheel (38,58, sprocket wheels) C3 L63-65 and the method includes determining whether the deflection wheels (38,58, sprocket wheels) C3 L63-65 rotate at the same speed by using the rotary encoder (7,8) of Joosten. It would be obvious to one of ordinary skill to use the monitoring device of Joosten into the invention of Kraft in order to add additional safety to the conveyor.

Claim 4, Kraft teaches there are two drive members (44,46) each associated with a drive wheel (See Fig. 1) and a deflection wheel (38,58, sprocket wheels) C3 L63-65, the

drive wheels (Fig. 1) synchronously rotating (via the chain), and the method includes determining whether either deflection wheel 38,58 rotates at the same speed as the drive wheels (via 7,8 of Joosten). It would be obvious of one of ordinary skill to use the monitoring device of Saito into the invention of Kraft in order to add additional safety to the conveyor.

Claim 5, Kraft teaches the member (44,46) is associated with a drive wheel (Fig. 1) and a deflection wheel (38,58, sprocket wheels) C3 L63-65 and the method includes determining whether the deflection wheel (38,58) rotates at the same speed as the drive wheel (Fig. 1) by using the rotary encoder (7,8) of Joosten. It would be obvious to one of ordinary skill to use the monitoring device of Joosten into the invention of Kraft in order to add additional safety to the conveyor.

Claims 6 and 16, Joosten teaches a rotating member (11,13) with each of the selected wheels (C3 L53-55/ 38,53 of Kraft) such that the rotating members (11,13) rotate at the same speed as the associated wheels (C3 L53-55/ 38,53 of Kraft), and determining when at least one of the rotating members (11,13) moves axially responsive to relative rotation between the selected wheels C3 L50-56. It would be obvious to one of ordinary skill to use rotating members that change position around each other in order to be able to monitor the system.

Claim 7, Kraft teaches a plurality of drive wheels (Fig. 1); a corresponding plurality of deflection wheels (38,58, sprocket wheels) C3 L63-65; a drive member (44,46) associated with each drive wheel (Fig. 1), each drive member (44,46) following a path around the associated drive wheel (44a,44b) and at least one corresponding deflection

wheel (48a,48b); and a monitor device (7,8 of Joosten) associated with selected ones of the wheels (38,58, sprocket wheels) C3 L63-65 that provides an indication of relative rotation between the selected wheels. It would be obvious to one of ordinary skill to use the monitoring device of Joosten into the invention of Kraft in order to add additional safety to the conveyor.

Claims 8,15,18, and 19, Kraft does not teach as Joosten teaches the monitor device (7,8) includes a first rotating member (11) coupled to rotate with a first one of the selected wheels (C3 L53-55 of Joosten /38,58, sprocket wheels C3 L63-65 of Kraft) and a second rotating member (13 of Joosten) coupled to rotate with a second one of the selected wheels (C3 L53-55 of Joosten /38,58 Kraft), the first and second rotating members (11,13 of C3 L53-55 of Joosten) moving relative to each other responsive to relative rotation between the selected wheels (C3 L53-55 of Joosten /38,58, sprocket wheels) C3 L50-55. It would be obvious to one of ordinary skill to use the rotating members of Joosten into the invention of Kraft in order to allow ease of rotation of the driven and deflection wheel.

Claim 11, Joosten teaches one of the rotating members (11) is axially fixed and the other rotating member (13) is biased into a first axial position and wherein relative rotation between the rotating members (11,13) causes the other rotating member (11,13) to move axially against the bias C3 L50-55. It would be obvious to one of ordinary skill to use the rotating members of Joosten into the invention of Kraft in order to allow ease of rotation of the driven and deflection wheel.

Claims 13 and 14, Joosten teaches a brake actuator (C4 L13-15 Fig. 4) associated with at least one of the rotating members 11,13, the actuator being operative responsive to axial movement of at least one of the rotating members (11,13) (see claim 1 of Joosten). It would be obvious to one of ordinary skill to use the rotating members of Joosten into the invention of Kraft in order to allow ease of rotation of the driven and deflection wheel.

Claim 17, Joosten two selected deflection wheels (C3 L53-55/ 38,53 of Kraft) that each have an associated second rotating member (11,13). It would be obvious to one of ordinary skill to use rotating members that change position around each other in order to be able to monitor the system.

Claim 20, Joosten teaches a first rotating member (11) for rotating at the same speed as a first selected wheel (38, 58 of Kraft); a second rotating member (13) for rotating at the same speed as a second selected wheel (C3 L53-55 of Joosten /38,58, sprocket wheels C3 L63-65 of Kraft), the first and second rotating members (11,13) changing position relative to each other responsive to relative rotation between the wheels (C3 L56-60 Fig. 2). It would be obvious to one of ordinary skill to use rotating members that change position around each other in order to be able to monitor the system.

Claim 24, Kraft teaches a step chain 30 associated with a plurality of steps (of 12) and wherein drive member (44) comprises a belt (C3 L62-65) between each drive wheel (of 44) and step chain (30) Fig. 1.

Claim 25, Kraft does not teach as Joosten teaches an indication of a condition of at least one drive member (44 of Kraft) responsive to the determining (7,8) (C3 L29-35).

Claim 26, Kraft does not teach as Joosten teaches positioning a monitor device (1,2,3) between the selected wheels (C3 L18-20) and using the monitor device for the determining. It would be obvious to one of ordinary skill to use a monitoring device as taught by Joosten into the invention of Kraft to ensure the safety for the passengers of the conveyor.

Claims 9,10,12, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft U.S. Patent 4,397,096 in view of Joosten U.S. Patent No. 6,112,166 in view of Reinsma U.S. Patent 3,854,345.11,13), but does not teach as Reinsma teaches bushings (22) having engaging faces (12) that cooperate to cause axial movement of at least one of the bushings responsive to relative rotation between the bushings (C2 L55-60). It would have been obvious to one of ordinary skill in the art at the time of the invention to use a monitor system to use bushings to engage faces during movement as taught by Reinsma into the invention of Kraft to reduce the amount of noise produced from the system.

Claims 12 and 23, Joosten teaches rotating members 11.13, does not teach as Reinsma teaches a spring (30) that biases the other rotating member (14) into the first axial position (C3 L47-50). It would have been obvious to one of ordinary skill in the art at the time of the invention to use a monitor system to use springs to align the rotating members during movement as taught by Reinsma into the invention of Kraft to maintain the alignment and reduce wear.Claim 27, Kraft teaches the drive member 44 wraps at least partially around selected wheels 38,58 via 15.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Kavel P. Singh whose telephone number is (571) 272-2362. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KPS

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